

individuals to be evacuees while reliable data remains available and sufficient to identify evacuees and their income in order to carry out the provisions of the DRA.

While no comments were received on any of the proposed HHS definitions of an evacuee or offers of alternative definitions, HHS examined each of the approaches identified above in reaching a decision on the interpretation of an evacuee and its potential impact on future FMAP calculations.

While approach 1 uses a specific time frame (18 months following evacuation), the time frame itself is arbitrary and we believe it is unreasonable to consider a person to be considered an evacuee once they have established residency and become integrated into the economy of their host state. Former Katrina evacuees will now be reported by their place of residence for 2006 and beyond, no longer separately identified as Katrina evacuees, and will be included in the population and income estimates collected by BEA for their states of residence.

HHS has learned that approach 2 (FEMA assistance) will not be viable because Katrina FEMA assistance will not be separately identified from all other FEMA assistance to identify evacuees beyond that which was provided for 2005.

Because of the practical difficulty in calculating an adjustment, we are adopting the third approach, limiting the definition of evacuee to the time period for which reliable data remains available, because the existence of reliable data is essential to identifying individuals as evacuees. It is clear from the current effort to comply with the DRA provisions that data to support the calculations is limited at best. While information on the number of Katrina evacuees has been available, data on income attributed to evacuees has been extremely limited. BEA, which collects the data upon which FMAP calculations are made, was limited in its ability to isolate income data for Katrina evacuees. Only some of the interstate income data, such as governmental transfer receipts (TANF, Medicaid, etc.), attributable to Katrina evacuees was available, while none of a state(s)' wages and salaries paid to Katrina evacuees who moved to the host state could be isolated to determine personal income data for these evacuees. It was therefore technically difficult to perform the calculations for the current year.

We do not believe that reliable data will be available to track either the number or the income of evacuees to make calculations for the FMAP beyond FY 2008. It is our understanding that

BEA will not undertake any continuing state estimates of the number of Katrina evacuees or income attributed to them beyond what already has been done for 2005.

Moreover, we believe the adjustment time frame is sufficiently long for individuals to become an integral part of, with economic and social ties to, the State in which they have been present. We continue to believe that the intent of the statutory adjustment was to relieve the temporary burden on host states of a sudden influx of evacuees who were not integrated into the host state economy. Thus we believe it is unreasonable to consider a person to be an evacuee once they have established residency and become integrated into the economy in their host state.

For the above reasons, HHS has determined to interpret the term "evacuee" to be limited to the time period for which reliable data is available on the number and income of evacuees. Based on our current understanding of the available data sources, this interpretation means that there would be no basis for performing the calculations specified in Section 6053(b) of the DRA beyond the current year calculations for the FY 2008 FMAP.

#### **F. Final FMAP and EFMAP Percentages for State(s) Affected by Hurricane Katrina**

Based on the findings of our review of the comments received, we believe the methodology as described herein, and in more detail at 72 FR 3391, is the most appropriate method, given the available information, for implementing Section 6053(b) of the DRA. As such, only the FMAP and EFMAP percentages for the state of Texas are affected.

The percentages for Texas are as follows:

Texas	Calculated 2008	2008 with adjustment for Section 6053(b)
FMAP .....	60.53	60.56
EFMAP .....	72.37	72.39

#### **G. Effective Dates**

The percentages listed will be effective for each of the four (4) quarter-year periods in the period beginning October 1, 2007 and ending September 30, 2008 (fiscal year 2008).

(Catalog of Federal Domestic Assistance Program Nos. 93.778: Medical Assistance Program; 93.767: State Children's Health Insurance Program)

Dated: May 21, 2007.

**Michael O. Leavitt,**

*Secretary of Health and Human Services.*

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## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **National Institute for Occupational Safety and Health; Final Effect of Designation of a Class of Employees for Addition to the Special Exposure Cohort**

**AGENCY:** National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** The Department of Health and Human Services (HHS) gives notice concerning the final effect of the HHS decision to designate a class of employees at the Dow Chemical Company, Madison, Illinois, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On June 22, 2007, as provided for under 42 U.S.C. 7384q(b), the Secretary of HHS designated the following class of employees as an addition to the SEC:

Atomic Weapons Employer (AWE) employees who were monitored or should have been monitored for exposure to thorium radionuclides while working at the Dow Chemical Company site in Madison, Illinois for a number of work days aggregating at least 250 work days from January 1, 1957 through December 31, 1960, or in combination with work days within the parameters established for one or more other classes of employees in the Special Exposure Cohort.

This designation became effective on July 22, 2007, as provided for under 42 U.S.C. 7384/(14)(C). Hence, beginning on July 22, 2007, members of this class of employees, defined as reported in this notice, became members of the Special Exposure Cohort.

#### **FOR FURTHER INFORMATION CONTACT:**

Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C-46, Cincinnati, OH 45226, Telephone 513-533-6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to [OCAS@CDC.GOV](mailto:OCAS@CDC.GOV).